IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1648 OF 2007

Smt. Shabnam Mohin Khan and others .. Petitioners
v/s.
The State of Maharashtra .. Respondent

Ms. Shabhana Shah for the petitioners.
Mr. A.S. Shitole, APP for the State.

CORAM : B.H. MARLAPALLE, J.
DATED : 3RD SEPTEMBER, 2007

P.C.

This petition filed under Article 227 of the Constitution of India and under section 482 of the Criminal Procedure Code prays for quashing of the order of conviction and sentence passed by the learned Additional Chief Metropolitan Magistrate, 40th Court, Girgaon, Mumbai on 29.7.2006 as well as the proceedings from which the said order emanates and the petition has been filed jointly by the original complainant-wife as petitioner No.1 and her in-laws who were the accused as petitioner Nos.2 to 6. The complaint came to be filed by the petitioner No.1-wife for the offences punishable under section 406 and 498A read with section 34 of I.P.C. and it was registered at the instance of the State before the trial court. On the basis of the said complaint, the accused came to be convicted for both the offences and have been sentenced to pay a fine of Rs.3000/- for the first charge and to suffer S.I. till rising of the court and to pay a fine of Rs.3000/- on the ground of second charge. The accused have already challenged the said order of conviction and sentence dated 29.7.2006 by filing an

appeal which is registered as Criminal Appeal No.632 of 2006 and is presently pending before the Sessions Court.

2. Pending the appeal for final hearing, the learned Additional Sessions Judge referred the parties for settlement through the Area Coordinator and consequently, the parties arrived at the settlement. The terms of settlement came to be reduced in writing as consent terms and they were placed before the Sessions Court in pending appeal. Though the learned Additional Sessions Judge was perhaps satisfied with the consent terms signed between the parties, he could not pass the order of compounding the offence and more particularly, the offence punishable under section 406 read with section 34 I.P.C. The parties, therefore, sought time before the Sessions Court for quashing the proceedings under section 482 of the Criminal Procedure Code. Hence this petition.

3. The complainant-wife and the accused No.3 husband, both are present before the court today and they affirmed that they have signed the consent terms before the mediator Mrs. Sheela Bhansali on 14th May, 2007 and consequently, the divorce between the parties is already over. An amount of Rs.3,12,000/- payable by the husband would include Meher amount as well as Iddat amount. The wife states that she has no further grievance and she has voluntarily consented for quashing of the proceedings.

4. Hence, the petition is allowed in terms of prayer clause (b). The parties may appear before the Lower Appellate Court with a copy of this order so that the pending appeal being Criminal Appeal No.632 of 2006 shall be disposed of by an appropriate order.

(B.H. MARLAPALLE, J.)